

REMARKS

Claims 1-20, and 22-42 are pending in this application. Claims 20, 31, 32 and 42 are amended and claim 21 is canceled.

Claim Rejections Under 35 USC §103

Claims 1, 19, 20, 31-35, 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Crocitto*, US Publication No. 2005/0144080 (“Crocitto”) in view of *Aboulhoshn*, US Patent No. 6,938,042 (“Aboulhoshn”).

Claims 2-16, 18, 21-28, 30, 36-39, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Crocitto* in view of *Aboulhoshn* further in view of what was well-known in the networking art.

Claims 17, 29, 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Crocitto* in view of *Aboulhoshn* further in view of *Davis*, US Patent No. 6,760,756.

Local Area Network

All the independent claims call for the first computing device and the second computing device to be connected via a local area network. None of the cited combination of references discloses the first and second computer to be connected via a local area network.

Paragraph 25 of *Crocitto* is cited as disclosing the claimed element of the first and second computer being connected via a local area network. A close read of paragraph 25 of *Crocitto* disclosed that the transaction server 49 and distribution server 52 may be connected via a local area network. This makes sense as the two servers (distribution and transaction)

make up the content distribution system 50 which may be a single device or multiple devices depending on the size of the audience being served (paragraph 0020).

The two disclosed computing devices 21 and 22 which are the peers in Crocitto are disclosed as being connected via a wide area network such as the Internet. Specifically, the last sentence of paragraph 25 states that “A peer to peer network may be accomplished by access to a data network such as the Internet 100” and in paragraph 0029, the computers 21 and 22 are referred to as “peers 21 and 22.” The first sentence of paragraph 25 of Crocitto describes the network connections 54 as being on the transaction server 49 and the distribution server 52, not computers 21 and 22. The diagram in Fig. 1 illustrates the same thing, that the servers are connected to a LAN but the peers are connected through a wide area network like the Internet. Thus, the only disclosed peers in Crocitto (computers 21 and 22) are disclosed as being connected through a wide area data network such as the Internet, not through a local area network as claimed.

This difference is significant and makes logical sense when the point of the application is compared to Crocitto. Crocitto is for distributing music and the transaction server 49 requires all users to log in order to access music. Accordingly, the transaction server keeps watch over who gets data.

In the pending claims, there is no “Big Brother” or transaction server 49 to keep watch over who is getting what files. It is a true peer-to-peer system and without the “Big Brother,” trust is required between the peers in order for successful and non-damaging sharing to occur. Such trust is vital when distributing such core data such as virus definitions and applications. As such, the claims are limited only to computers that are connected via a local area network. In this way, two computers connected to the same local network

presumably trust each other and can share such key data without requiring “Big Brother” to keep watch over the process.

As a result, the pending claims are patentably distinct from the cited art. The claimed element of the first and second computer being connected via a local area network is missing from the references and is useful for the successful operation of the claimed system which requires trust and does not require a transaction server to monitor the process.

Specific Data Types

Many of the independent claims call for the data to be very specific data. Specifically, the claims call for the data to be:

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| 14., 26, 37 | a product update; |
| 15., 27, 38 | an application; |
| 16., 28, 39. | a virus definition file; and |
| 17., 29, 40 | a web cache. |

The Office Action points to paragraph 21 of Crocitto disclosing these claimed elements. Paragraph 21 merely states that the distribution server 52 may contain “data files” and lists several types of music and video files as examples. The claims are quite specific in calling for the data to be a specific type. These specific types are not disclosed or contemplated by Crocitto and logically so.

The claimed data types have the potential to go to the core of the operating system of a computer while the files described and contemplated in Crocitto are simply video or music files. Distributing the types of files as described in the claims requires significant trust among the peers. Crocitto addresses the trust issue by requiring a transaction server to

establish trust. In Crocitto, once the trust is established by the transaction server, it makes sense that a wider network could be used to distribute the relatively harmless media related files. However, the application itself and several dependent claims call for file types that are extremely sensitive to a computer. As such, great trust is needed, especially considering a transaction server is not required. Accordingly, the claims are limited to those computers that are on the same local network where trust is logically assumed.

Having such operation critical files communicated over a wide area network as described by Crocitto does not make sense as the wide area network is vulnerable to malicious attacks. It makes logical sense that Crocitto does not describe communicating such sensitive files in this way.

In conclusion, data could be construed to be a broad term. However, looking at the claims and Crocitto logically, it is clear that the claims are calling for a very specific type of data that is not disclosed or contemplated by Crocitto. Accordingly, the claims are patentably distinct over the cited references.

Media Streaming

Claims 18, 30 and 41 call for a media stream. Crocitto describes plenty of static music and video files but not streaming. Streaming is patentably distinct from static files. Streaming requires a constant delivery of data where static files can be communicated in burst. Accordingly, the streaming claims are distinct over the cited art.

CONCLUSION

In view of the above amendment and arguments, the applicant submits the pending application is in condition for allowance and an early action so indicating is respectfully requested.

The Commissioner is authorized to charge any fee deficiency required by this paper, or credit any overpayment, to Deposit Account No. 13-2855, under Order No. 30835/306066, from which the undersigned is authorized to draw.

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Respectfully submitted,

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